

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.
501 School Street, S.W., Suite 500
Washington, DC 20024,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE
2201 C Street, NW
Washington, DC 20520

Defendant.

Civil Action No.

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff, Judicial Watch, Inc., hereby files this Complaint to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Judicial Watch, Inc. alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Judicial Watch, Inc. is a non-profit, educational foundation organized under the laws of the District of Columbia and having its principal place of business at 501 School Street, S.W., Suite 500, Washington, DC 20024.

4. Defendant Department of State (“DOS”) is an agency of the United States government. DOS has its principal place of business in the District of Columbia. DOS is in possession, custody and control of records to which Judicial Watch, Inc. seeks access.

STATEMENT OF FACTS

5. On November 22, 2004, Judicial Watch, Inc. sent DOS, by facsimile and by certified U.S. mail, return receipt requested, a FOIA request seeking access to any and all records concerning or relating to the following subjects:

a. United Nations (UN) audits and/or reports pertaining to the Oil-for-Food Program (OFF) that were compiled and/or produced by the UN Office of Internal Oversight Service (OIOS);

b. All communication and/or correspondence regarding United Nations (UN) internal audits and/or reports pertaining to the Oil-for-Food Program (OFF) that were compiled and/or produced by the UN Office of Internal Oversight Service (“OIOS”);

c. All communications and/or correspondence regarding “Chairmans’ Letters,” that were sent in early June 2004, to the US State Department and co-signed by the United States Senate Committee on Governmental Affairs, Permanent Subcommittee on Investigations, Chairman Norm Coleman and Ranking Member Carl Levin (respectively), seeking “the minutes of the ‘661 Committee’ meetings at the UN, which reviewed oil-for-food contracts.”

d. The contracts reviewed in the “661 Committee” meeting minutes cited in Item No. 3, above.

e. All communication and/or records regarding the Independent Inquiry Commission.

6. Judicial Watch, Inc.’s November 22, 2004 FOIA request also sought a waiver of both search and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II), 5 U.S.C. § 552(a)(4)(A)(iii). The request also stated that Judicial Watch would be willing to pay up to \$350.00 in search and/or duplication fees in the event that its request for a waiver of fees was not granted. A copy of Judicial

Watch, Inc.'s November 22, FOIA request is attached hereto as Exhibit 1 and is incorporated herein by reference.

7. On or about December 6, 2004, Judicial Watch, Inc. received a letter from Richard Devine of DOS's Requester Communications Branch acknowledging DOS's receipt of Judicial Watch, Inc.'s November 22, 2004 FOIA request. The letter did not include any responsive documents or contain any definitive statement as to when Judicial Watch, Inc. could expect to receive responsive documents from DOS.

8. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), DOS was required to determine whether to comply with Judicial Watch, Inc.'s November 22, 2004 FOIA request by December 21, 2004. At that time, DOS also was required to notify Judicial Watch, Inc. of its determination, provide Judicial Watch, Inc. with the reasons for its determination, and inform Judicial Watch, Inc. of its right to administratively appeal any adverse determination. 5 U.S.C. § 552(a)(6)(A)(i).

9. Because it had not received a single document or any other substantive response to its November 22, 2004 FOIA request, Judicial Watch, Inc. sent letters to DOS on December 14, 2004, January 13, 2005, and February 1, 2005, requesting an update as to the status of its November 22, 2004 FOIA request. A copy of Judicial Watch, Inc.'s February 1, 2005 letter is attached hereto as Exhibit 2 and is incorporated herein by reference.

10. As of February 7, 2005, DOS failed to respond to Judicial Watch, Inc.'s November 22, 2004 FOIA request in any substantive manner. It failed to produce records responsive to Judicial Watch, Inc.'s November 22, 2004 FOIA request or claim that such records are exempt from production under 5 U.S.C. § 552(b). It failed to notify Judicial Watch, Inc. of any determination whether to comply with Judicial Watch, Inc.'s request and the reasons for any such determination.

It also failed to inform Judicial Watch, Inc. of its right to take an administrative appeal from any adverse determinations.

11. In addition, as of February 7, 2005, DOS failed to invoke the provisions set forth in 5 U.S.C. § 552(a)(6)(B) for extending the time limits to respond to Judicial Watch, Inc.'s November 22, 2004 FOIA request.

12. Because DOS failed to comply with the time limits set forth in 5 U.S.C. § 552(a)(6)(A) or extend those time limit provisions pursuant to 5 U.S.C. § 552(a)(6)(B), Judicial Watch, Inc. is deemed to have exhausted any and all administrative remedies with respect to its November 22, 2004 FOIA request. 5 U.S.C. § 552(a)(6)(C).

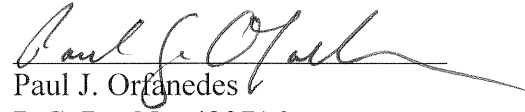
COUNT 1
(Violation of FOIA)

13. Plaintiff realleges paragraphs 1 through 12 as if fully stated herein.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) enjoin Defendant from continuing to withhold records responsive to Plaintiff's November 22, 2004 FOIA request and order Defendant to produce all responsive records improperly withheld from Plaintiff without further delay; (4) award Plaintiff attorneys fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant such other relief as the Court deems just and proper.

Respectfully submitted,

JUDICIAL WATCH, INC.

A handwritten signature in black ink, appearing to read "Paul J. Orfanedes", with a long horizontal flourish extending to the right.

Paul J. Orfanedes

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